case, that the pledgee is under no duty to sue. *Black River Bank* v. *Page*, 44 N. Y. 453; *Rice* v. *Benedict*, 19 Mich. 132; *Smith* v. *Felton*, 85 Ind. 223. But see *Wakeman* v. *Gowdy*, *supra*. This is especially true where the pledgor makes no tender covering the expense of litigation. *Wells & Dewing* v. *Wells & Scriber*, 53 Vt. 1. See *Culver* v. *Wilkinson*, 145 U. S. 205, 213. Although the pledgee's assent and subsequent failure to foreclose might constitute such negligence as to render him liable, yet if the pledgor had notice of this inaction and an opportunity to protect himself, the pledgee would not be liable. See *City Savings Bank* v. *Hopson*, 53 Conn. 453, 457.

QUASI-CONTRACT — RECOVERY OF MONEY PAID UNDER MISTAKE OF FACT — PAYMENT BY MISTAKE ON A POST-DATED CHECK. — A bank paid the payee of a post-dated check, not noticing the future date. After payment, but before the date of the check, the drawer ordered payment stopped. The bank sought to recover the amount from the payee. *Held*, defendant's ignorance that the bank paid under a mistake is not a sufficient defense. *Second National Bank of Reading* v. *Zable*, 66 Pitts. L. J. 774.

Generally, one who pays another money under a mistake of fact may recover. *Hummel* v. *Flores*, 39 S. W. 309 (Texas); *United States* v. *Phillips*, 21 D. C. 309. The purpose of allowing such a quasi-contractual action is to prevent the unjust enrichment of the defendant. *Moses* v. *McFerlan*, 2 Burr. 1005, 1012. There is no recovery, therefore, in cases where the plaintiff, though under a duty to pay, paid under a mistake as to the nature of his obligation or legal liability. *Johnson* v. *Hernig*, 53 Pa. Super. Ct. 179; *Buel* v. *Boughton*, 2 Den. (N. Y.) 91; *Morrison* v. *Payton*, 31 Ky. L. Rep. 992, 104 S. W. 685. And recovery is not allowed when the defendant has with honesty so changed his position that if the plaintiff recovered, he could not be restored to his former status. *Bend* v. *Hoyt*, 13 Pet. (U. S.) 263; *Behring* v. *Somerville*, 63 N. J. L. 568, 44 Atl. 641. From the foregoing it would seem that in the principal case the bank should recover. The law, however, for commercial security treats banks more strictly, and in the absence of fraud, denies them recovery for money paid the holders of checks under mistake as to the sufficiency of the funds of the drawers or their solvency. *National Exchange Bank* v. *Ginn*, 114 Md. 181, 78 Atl. 1026; *American National Bank* v. *Miller*, 185 Fed. 338. The present case seems to relax the strict rules.

RAILROADS — STATE REGULATION — UNLAWFUL INTERFERENCE WITH INTERSTATE COMMERCE. — A Missouri statute prohibits railroad corporations from issuing mortgage bonds without authority from the Public Service Commission, imposes heavy penalties for violation of the statute and purports to invalidate bonds so issued. (1913, MO. LAWS, 592, 593, 600.) The commission is required to charge a fee proportionate to the value of the authorized issue. (*Ibid.*, 567.) The plaintiff company is a Utah corporation engaged in interstate transportation, a small part of its line extending into Missouri. The company applied to the Missouri Public Service Commission for a certificate authorizing it to issue $31,848,900 worth of bonds secured by a mortgage on its entire interstate line. The commission granted the authority, charging a fee of $10,962.25. The company accepted the grant under protest, alleging that the fee was an unconstitutional interference with interstate commerce. The Supreme Court of Missouri held that the company by accepting the benefits was estopped to assert the invalidity of the fee. (In a subsequent case the Missouri court held the statute inapplicable to foreign corporations. *Public Service Commission* v. *Union Pac. R. R. Co.*, 271 Mo. 258.) On appeal to the United States Supreme Court, *held*, the charge was an unlawful interference with interstate commerce, the company not being estopped to assert its illegality, since the payment was under duress. *Union*